

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES—GENERAL

Case No. CV 23-07114-MWF (JCx)

Date: March 15, 2024

Title: Shannon O. Murphy v. AT and T

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:
Rita Sanchez

Court Reporter:
Not Reported

Attorneys Present for Plaintiff:
None Present

Attorneys Present for Defendant:
None Present

Proceedings (In Chambers): ORDER DISMISSING ACTION; ENTRY OF JUDGMENT

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On February 22, 2024, the Court denied Plaintiff's Request for Reconsideration ("Order Denying Reconsideration" (Docket No. 15)) that was filed in response to the Court's prior order where the Court granted Defendant's motion to dismiss with leave to amend as to Plaintiff's claims. (Docket No 14). In the Order Denying Reconsideration, the Court gave Plaintiff until **March 1, 2024** to file a First Amended Complaint ("FAC") and warned Plaintiff that "[f]ailure to file a FAC will be construed as the intention to stand on Plaintiff's current inadequate claims, and thus the action will be dismissed with prejudice." (Order Denying Reconsideration at 2). As of March 15, 2024, Plaintiff has not filed a FAC or any documents responsive to the Order Denying Reconsideration.

It is well-established that a district court has authority to dismiss a plaintiff's action due to his failure to prosecute and/or to comply with court orders. *See* Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962) (noting that the district court's authority to dismiss for lack of prosecution is necessary to prevent undue delays in the disposition of pending cases and avoid congestion in district court calendars).

Before ordering dismissal, the Court must consider five factors: (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket; (3) the risk of prejudice to Defendant; (4) the public policy favoring the

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disposition of cases on their merits; and (5) the availability of less drastic sanctions. *See In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994) (failure to prosecute).

Taking all of these factors into account, dismissal for lack of prosecution is warranted. Plaintiff was specifically warned that failure to file a FAC would result in dismissal of this action with prejudice.

Accordingly, this action is **DISMISSED *with prejudice***.

IT IS SO ORDERED.

This Order shall constitute notice of entry of judgment pursuant to Federal Rule of Civil Procedure 58. Pursuant to Local Rule 58-6, the Court **ORDERS** the Clerk to treat this Order, and its entry on the docket, as an entry of judgment.